

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re	: Chapter 11
	: Case No. 01-B-15472 (SMB)
BEST PAYPHONES, INC.,	: Debtor.
	: -----X
BEST PAYPHONES, INC.,	: Appellant,
v.	: Civil Action No.
VERIZON NEW YORK INC.,	: Appellee.
	:-----X

**APPELLEE'S DESIGNATION OF ADDITIONAL ITEMS TO BE INCLUDED  
IN THE RECORD ON APPEAL**

Pursuant to Fed. R. Bankr. P. 8006, Appellee Verizon New York Inc. (“Verizon”) designates the following additional items to be included in the record on appeal of the *Order with Respect to August 22, 2007 Trial on Issue Remanded by Opinion and Order of the District Court Dated March 14, 2006*, entered November 5, 2007 (the “November 5, 2007 Order”):<sup>1</sup>

1. Best Payphones, Inc. (“Appellant”) has designated Verizon Exhibits 1-19 that were submitted and taken into evidence at the trial held in this matter on August 22, 2007. Because the November 26, 2007 Best Designation did not specifically identify the trial date, Verizon re-designates those exhibits for the sake of clarity.

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<sup>1</sup> Page 1 of the Designation of Record and Statement of Issues filed by Appellant Best Payphones, Inc. on November 26, 2007 (the “November 26, 2007 Best Designation”) incorrectly references an appeal from “the Order of the Bankruptcy Court entered November 4, 2005.” Its Notice of Appeal filed on November 15, 2007 is from the November 5, 2007 Order.

2. Because Appellant did not specifically identify the docket item number, Verizon re-designates the Court's Post-Trial Findings of Fact and Conclusions of Law, signed on 10/17/2007 [Docket Item 724] for the sake of clarity.

3. Because Appellant did not specifically identify the docket item number, Verizon re-designates the Court's November 5, 2007 Order [Docket Item 734] for the sake of clarity.

4. Post-Trial Memorandum of Verizon New York Inc. with Respect to August 22, 2007 Trial on Issue Remanded by Opinion and Order of the District Court Dated March 14, 2006. [Docket Item 697]

5. Verizon does not understand Appellant's "Designation of Items in record from Prior Appeal Repeated for Reference." Verizon objects to any effort by Appellant to re-litigate any prior appeals.<sup>2</sup> While reserving all rights in this respect, Verizon incorporates by reference the items contained in its Designation of Additional Items to be included in the Record on Appeal filed on July 18, 2005 [Docket Item 415] and its Appellee's Designation of Additional Items to be Included in the Record on Appeal filed on November 30, 2005 [Docket Item 467].

Dated: December 5, 2007

Respectfully submitted,

ARNALL GOLDEN GREGORY LLP

/s/ Darryl S. Laddin \_\_\_\_\_  
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Attorneys for Appellee Verizon New York Inc.

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<sup>2</sup> Verizon also notes that numerous items cited in this section of Appellant's Designation of Record are not contained in the Bankruptcy Court record. Verizon objects to the improper inclusion of such items in the record on appeal, as well as to any attempt by the Appellant to refer to or rely upon any such items in its briefs filed with this Court. Verizon reserves all of its rights in this respect.

**CERTIFICATE OF SERVICE**

I hereby certify that on the 5<sup>th</sup> day of December, 2005, I served a copy of the foregoing document by causing a copy of same to be deposited in the United States Mail, first-class postage pre-paid, addressed as follows:

Office of the United States Trustee  
33 Whitehall Street  
21st Floor  
New York, NY 10004

Mayne Miller  
21-55 45th Road  
Post Office Box 8050  
Long Island City, NY 10116

/s/ Darryl S. Laddin  
Darryl S. Laddin